

EXHIBIT #5

IN SUPPORT OF PLAINTIFFS' SUPPLEMENTAL BRIEF IN SUPPORT OF
JOINT MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT

STUART H. SINGER (*Pro Hac Vice*)
 CARLOS M. SIREs (*Pro Hac Vice*)
 SIGRID S. MCCAWLEY (*Pro Hac Vice*)
 BOIES, SCHILLER & FLEXNER LLP
 401 East Las Olas Boulevard, Suite 1200
 Fort Lauderdale, Florida 33301
 Telephone: (954) 356-0011
 Facsimile: (954) 356-0022
 E-mail: ssinger@bsfllp.com
 E-mail: csires@bsfllp.com
 E-mail: smccawley@bsfllp.com

*Additional counsel for
 Plaintiffs Jeff Pokorny, Larry Blenn and
 Kenneth Busiere:*

DAVID BOIES (*Pro Hac Vice*)
 BOIES, SCHILLER & FLEXNER LLP
 333 Main Street
 Armonk, NY 10504
 Telephone: (914) 749-8200
 Facsimile: (914) 749-8300
 E-mail: dboies@bsfllp.com

WILLIE E. GARY (*Pro Hac Vice*)
 MARIA SPERANDO (*Pro Hac Vice*)
 TRICIA P. HOFFLER (*Pro Hac Vice*)
 GARY, WILLIAMS, FINNEY, LEWIS,
 WATSON & SPERANDO, P.L.
 221 East Osceola Street
 Stuart, Florida 34994
 Telephone: (772) 283-8260
 Facsimile: (772) 220-3343
 E-mail: weg@williegary.com
 E-mail: mps@williegary.com
 E-mail: mad@williegary.com

DAVID W. SHAPIRO (CA SBN 219265)
 BOIES, SCHILLER & FLEXNER LLP
 1999 Harrison Street, Suite 900
 Oakland, California 94612
 Telephone: (510) 874-1000
 Facsimile: (510) 874-1460
 E-mail: dshapiro@bsfllp.com

Attorneys for Plaintiffs
 JEFF POKORNY, LARRY BLENN
 and KENNETH BUSIERE

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

JEFF POKORNY, LARRY BLENN
 and KENNETH BUSIERE on behalf of
 themselves and those similarly situated,

Plaintiffs,

v.

QUIXTAR INC., *et al.*,

Defendants.

Case No. C 07-00201 SC

**DECLARATION OF
 SIGRID S. MCCAWLEY**

I, Sigrid S. McCawley, declare:

1 1. I am an attorney licensed to practice law in the State of Florida and before various
2 federal courts, and have been admitted pro hac vice in this matter.

3 2. I am a partner in the law firm of Boies Schiller & Flexner ("BSF"), and I have
4 been actively involved in this case from the pre-case investigation to the present and have
5 regularly interacted with the named plaintiffs.

6 3. This declaration is based on my personal knowledge, except where noted
7 otherwise.

8 4. I provide this declaration pursuant to this Court's direction that Plaintiffs' counsel
9 provide an explanation of the work, efforts and hours spent by the named plaintiffs as a result of
10 their involvement in this case.

11 5. The named plaintiffs in this case, Jeff Pokorny, Larry Blenn and Kenneth Busiere,
12 have played an extraordinarily active role in the litigation from the initial fact investigation
13 stages through the various court filings and hearings and ultimately during the settlement
14 negotiations. The named plaintiffs in this case had the courage to stand up to this major
15 corporation with its massive following of IBOs and challenge what they believed to be wrongful
16 business practices, despite their fear of retaliation.

17 6. The work that the named plaintiffs performed includes the following general
18 categories: (1) attending initial meetings with class counsel to discuss fact investigations; (2)
19 conducting fact investigation for class counsel which included reviewing a large volume of
20 Quixtar documents and electronic information as well as organizing, categorizing and
21 summarizing their documents and information; (3) gathering factual information from other
22 colleagues who were also involved with Quixtar; (4) assisting the attorneys with the review and
23 finalization of the initial pleadings and gathering information and documents to be used with the
24 initial pleadings; (5) engaging in numerous phone conferences with counsel over the course of
25 six years in order to assist in the case development and respond to factual inquiries from counsel;
26 (6) attending approximately five in person mediation sessions which required traveling to New
27 York and taking extensive time off from work; (7) attending oral argument in the Ninth Circuit
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1 with counsel which involved travel and taking time off from work; and (8) reviewing and
2 commenting on certain case filings to ensure their accuracy.

3 7. Mr. Pokorny estimates that he spent approximately 278 hours assisting the
4 lawyers with the case which includes (1) preparing for, attending , and traveling to and from five
5 mediation sessions at 20 hours each session, which includes time spent traveling to and from
6 mediation as well as preparation and attendance time totaling approximately 100 hours; (2)
7 initial case meetings of approximately 12 hours; (3) phone conference meetings over the last six
8 years for approximately 72 hours; (4) independent fact investigation, review of documents,
9 financials and discussions with other fact witnesses for approximately 80 hours over the course
10 of the litigation; (5) traveling to and from, preparing for, and attending oral argument in the
11 Ninth Circuit for approximately 8 hours; and (6) reviewing and conferring regarding certain case
12 filings for approximately 6 hours.

13 8. Mr. Blenn estimates that he spent approximately 248 hours 1) preparing for,
14 attending, and traveling to and from five mediation sessions at 20 hours each session which
15 includes time spent traveling to and from mediation as well as preparation and attendance time
16 totaling approximately 100 hours; (2) initial case meetings of approximately 12 hours; (3) phone
17 conference meetings over the last six years for approximately 72 hours; (4) independent fact
18 investigation, review of documents, financials and discussions with other fact witnesses for
19 approximately 60 hours over the course of the litigation; and (5) reviewing and conferring
20 regarding certain case filings for approximately 4 hours.

21 9. Mr. Busiere estimates that he spent approximately 233 hours 1) preparing for,
22 attending, and traveling to and from five mediation sessions at 20 hours each session, which
23 includes time spent traveling to and from mediation as well as preparation and attendance time
24 totaling approximately 100 hours; (2) initial case meetings of approximately 12 hours; (3) phone
25 conference meetings over the last six years for approximately 72 hours; (4) independent fact
26 investigation, review of documents, financials and discussions with other fact witnesses for
27 approximately 35 hours over the course of the litigation; (5) traveling to and from, preparing for,
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1 and attending oral argument in the Ninth Circuit for approximately 10 hours; and (6) reviewing
2 and conferring regarding certain case filings for approximately 4 hours.

3 10. The named plaintiffs played an incredibly active part in the settlement of the case.
4 Each settlement proposal was discussed with the named plaintiffs, who provided valuable input
5 in connection with the existing settlement structure that provides economic compensation for
6 IBOs who registered but then withdrew during their first year, for IBOs who purchased a
7 substantial amount of business support materials, and for the hardship fund for those IBOs who
8 suffered special damages. In addition, each of the named plaintiffs provided input on the
9 injunctive relief elements of the settlement.

10 11. Each of the named plaintiffs had financially suffered as a result of their
11 involvement with Quixtar, including Mr. Blenn being financially hurt to the point of bankruptcy.
12 Despite already having suffered financially, the named representatives took time away from their
13 wage earning positions to assist in the litigation, including attending meetings, hearings and
14 mediations as explained in detail above.

15 12. As a result of the significant effort put forth by the named representatives, if the
16 settlement is approved, plaintiffs' counsel will request an incentive award of \$20,000.00 for each
17 of the three named plaintiffs.

18 13. I declare under penalty of perjury that the foregoing facts are true and correct to
19 the best of my knowledge.

20 14. Dated this 16th day of November, 2011 in Broward County, Florida.

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23 Sigrid S. McCawley, Declarant
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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of November, 2011, the foregoing has been served via the CM/ECF system on counsel for Defendants at the following address:

<p>Cedric C. Chao William L. Stern James M. Schurz MORRISON & FOERSTER LLP 425 Market Street San Francisco, California 94105-2482 Telephone: (415) 268-7000 Facsimile: (415) 268-7522 cchao@mofo.com wstern@mofo.com</p> <p><i>Attorneys for Defendant Quixtar Inc.</i></p>	<p>Donald W. Carlson Edward F. Donohue CARLSON, CALLADINE & PETERSON, LLP 353 Sacramento Street, 16th Floor San Francisco, CA 94111 Telephone: (415) 391-3911 Facsimile: (415) 391-3898 dcarlson@ccplaw.com edonohue@ccplaw.com</p> <p><i>Additional counsel for Defendants James Ron Puryear, Georgia Lee Puryear, World Wide Group, L.L.C.</i></p>
<p>James R. Sobieraj Ralph J. Gabric Julie L. Leichtman BRINKS HOFER GILSON & LIONE 455 N. Cityfront Plaza Drive Chicago, Illinois 60611 Telephone: (312) 321-4200 Facsimile: (312) 321-4299 jsobieraj@usebrinks.com</p> <p><i>Attorneys for Defendant Quixtar Inc.</i></p>	<p>J. William Blue, Jr. NORTHERN BLUE, L.L.P. 1414 Raleigh Road, Suite 435 The Exchange At Meadowmont Chapel Hill, NC 27517 Telephone: (919) 968-4441 Facsimile: (919) 942-6603 jwb@nbfirm.com</p> <p><i>Additional counsel for Defendants World Wide Group, L.L.C., American Multimedia Inc., Britt Management, Inc., Bill Britt, Peggy Britt</i></p>
<p>C. Matthew Andersen WINSTON & CASHATT 1900 Bank of America Bldg. 601 W. Riverside Spokane, WA 99201 Telephone: (509) 838-6131, (800) 332-0534 Facsimile: (509) 838-1416 cma@winstoncashatt.com</p> <p><i>Additional counsel for Defendants James Ron Puryear, Georgia Lee Puryear, World Wide Group, L.L.C.</i></p>	<p>Benjamin K. Riley HOWREY LLP 525 Market Street, Suite 3600 San Francisco, CA 94105-2708 Telephone: (415) 848-4900 Facsimile: (415) 848-4999 rileyb@howrey.com</p> <p><i>Additional counsel for Defendants World Wide Group, L.L.C., American Multimedia Inc., Britt Management, Inc., Bill Britt, Peggy Britt</i></p>

/s/ Sigrid S. McCawley

Attorney for Plaintiffs